

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES R. GRADDIC, JR.,

Plaintiff,

v.

Civil Action 2:19-cv-03413

Judge Sarah D. Morrison

Chief Magistrate Judge Elizabeth P. Deavers

MEGAN J. BRENNAN, *et al.*,

Defendants.

REPORT AND RECOMMENDATION

This matter is before the Court for reconsideration of the Undersigned's Report and Recommendation pursuant to the Recommittal Order by Judge Morrison. (ECF Nos. 24, 27.)

On April 1, 2020, the Undersigned recommended that the Court dismiss this action as to Defendants Megan J. Brennan, Yolanda Buskey, Alan Kagy, and Anjenette Spencer without prejudice pursuant to Rule 4(m) for failure to timely effect service of process. (ECF No. 24.)

On April 6, 2020, returned summonses were filed on the docket reflecting that Defendant Megan J. Brennan was served on March 11, 2020, and that Defendant Yolanda Buskey was served on March 6, 2020. (ECF No. 27.) The deadline for Plaintiff to effect service was March 24, 2020. (ECF No. 21.) Because the docket now reflects that these Defendants were served prior to the deadline, the Undersigned no longer recommends dismissal as to Defendants Megan J. Brennan and Yolanda Buskey. Therefore, it is **RECOMMENDED** that the Court dismiss this action without prejudice only as to Defendants Alan Kagy and Anjenette Spencer pursuant to Rule 4(m) for failure to timely effect service of process. (*See* ECF No. 24.)

PROCEDURE ON OBJECTIONS

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part in question, as well as the basis for objection. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy. Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *See, e.g., Pfahler v. Nat'l Latex Prod. Co.*, 517 F.3d 816, 829 (6th Cir. 2007) (holding that “failure to object to the magistrate judge’s recommendations constituted a waiver of [the defendant’s] ability to appeal the district court’s ruling”); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005) (holding that defendant waived appeal of district court’s denial of pretrial motion by failing to timely object to magistrate judge’s report and recommendation). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) (“[A] general objection to a magistrate judge’s report, which fails to specify the issues of contention, does not suffice to preserve an issue for appeal”) (citation omitted)).#

Date: April 15, 2020

/s/ Elizabeth A. Preston Deavers
ELIZABETH A. PRESTON DEAVERS
CHIEF UNITED STATES MAGISTRATE JUDGE

